

## ARKANSAS COURT OF APPEALS

DIVISION II

No. E12-630

DANA LOVE

APPELLANT

V.

DIRECTOR, ARKANSAS  
DEPARTMENT OF WORKFORCE  
SERVICES, and HOME INSTEAD  
SENIOR CARE

APPELLEES

**Opinion Delivered** February 6, 2013

APPEAL FROM THE ARKANSAS  
BOARD OF REVIEW  
[NO. 2011-BR-02646]

REVERSED AND REMANDED

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**RITA W. GRUBER, Judge**

In this unbriefed pro se appeal, Dana Love contends that the Board of Review erred in denying her unemployment benefits based on its finding that she voluntarily left last work without good cause connected with the work. Because substantial evidence does not support the Board's decision, we reverse and remand for an award of benefits.

Dana Love had worked as a community-service representative for Home Instead Senior Care for almost a year when the owner of the company hired a new general manager, Kayla Stephens. Ms. Love and Ms. Stephens had a personality conflict. In June 2011, the owner of the company discharged Ms. Love. The Department of Workforce Services denied Ms. Love's claim for unemployment benefits, and she appealed to the Arkansas Appeal Tribunal. After conducting a telephone hearing, the Appeal Tribunal issued a decision denying benefits under Ark. Code Ann. § 11-10-513(a)(1) (Supp. 2011) because it found that

Ms. Love voluntarily left last work without good cause connected to the work. Specifically, it found that Ms. Love was “deemed to have quit and the employer to have accelerated her separation” when she admitted that she had been seeking other employment. The Board adopted and affirmed the decision of the Appeal Tribunal.

The findings of fact of the Board of Review are conclusive if they are supported by substantial evidence. Ark. Code Ann. § 11-10-529(c)(1) (Supp. 2011); *Perry v. Gaddy*, 48 Ark. App. 128, 129, 891 S.W.2d 73, 74 (1995). Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *West v. Director*, 94 Ark. App. 381, 383, 231 S.W.3d 96, 98 (2006). Even when there is evidence upon which the Board might have reached a different decision, the scope of judicial review is limited to a determination of whether it could have reasonably reached its decision based upon the evidence before it. *Id.*

Ms. Love testified on her own behalf at the hearing; Ms. Stephens testified for the employer. The hearing officer asked both parties whether Ms. Love quit or was discharged. Both parties testified that Ms. Love had been discharged. Ms. Stephens said that she was not sure why Ms. Love had been discharged, but that she “believed” it was because Ms. Love had used company email to start looking for a new job; had failed to turn in some credit-card receipts; and had discrepancies on her calendar. Ms. Love testified that the reason for her discharge was “unclear” but that the owner of the company felt that it would be best for Ms. Love to seek other employment because of the personal conflict between her and Ms. Stephens. Although Ms. Love admitted at the hearing that she had applied for another job

using “Linked In,” which was tied to her work email, she testified that her employer had no verbal or written policy regarding the use of work email for personal purposes. In any case, there was no evidence that Ms. Love quit or that she had accepted another job elsewhere.

Contrary to the Board’s findings, Ms. Love did not quit her job. She was fired. Her admission that she had applied for another job while working for Home Instead Senior Care does not equate to voluntarily leaving her job. Accordingly, we hold that substantial evidence does not support the Board’s decision, and we reverse and remand for an award of benefits.

Reversed and remanded.

HARRISON and WYNNE, JJ., agree.

*Dana Love*, pro se appellant.

*Phyllis Edwards*, Associate General Counsel, for appellee.